

Written representation on the Sustainability Appraisal of Regulation 18
Canterbury and District Draft Local Plan Draft Local Plan to 2040

This written representation is sent by email before the deadline of 5pm on 10.6.2024. I received the extension because I could not locate the appendices B to N of the sustainability appraisal when using the online webform to comment on the draft local plan in the morning of 3.6.2024. So I phoned the planning department who couldn't help me and advised me to send an email request, which I did at 10.15am that day. This document is submitted in addition to other comments on the Draft Local Plan which were submitted on 3.6.2024 using the webform questionnaire. The Council clarified on 5.8.2024 that they will accept both submissions.

Comments

(my bold underline and italics)

The National Planning Policy Framework (Dec 2023) replaces earlier versions of the document, it states:

1. Introduction

1. The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied¹. It provides a framework within which locally-prepared plans can provide for sufficient housing and other development in a sustainable manner. Preparing and maintaining up-to-date plans should be seen as a priority in meeting this objective

2....The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

National Planning Policy Framework was updated in December 2023. Paragraph 188 now states (my underlining)

188 The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or *in combination with other plans or projects*), unless *an appropriate assessment* has concluded that the plan or project will not adversely affect the integrity of the habitats site.

When the last local plan was inspected and adopted in 2017, Westminster was advising planning inspectors to prioritise house building despite NPPF 11a) requirement for plan-makers to align growth and infrastructure. This is no longer the case. It is no longer acceptable to treat water supply and waste water infrastructure which is a cross boundary matter where undercapacity causes water pollution and environmental damage through combined sewer overflow and

undercapacity at coastal WwTw like Swalecliffe, on a purely on a site by site basis, especially where this is likely to impact a protected site. Para 191 is clear:

191 **Planning policies** and decisions should also ***ensure*** that **new development is appropriate for its location** taking into account **the likely effects (including *cumulative effects*) of pollution on health, living conditions and the *natural environment***, as well as the potential sensitivity of the site or the ***wider area to impacts that could arise from the development.***

The Sustainability Appraisal, Scope Report and Appendix D Baseline Analysis are out of date and do not reference the environmental deterioration of local water and related negative economic, health and social consequences as a result of sewage and road run off impacting shellfish and bathing waters at Whitstable, Sandwich Bay, endangered rare chalk rivers like the Stour, and Stodmarsh Ramsar wetland that are suffering environmental degradation as a result of sewage undercapacity to support the recent new build on green field and increased migration both within the Canterbury District and in the neighbouring districts, which is combined with downpours and drought due to climate change. **There was a clear warning about the lack of sewage capacity for intended new build on green field in 2016.**

Appendix D Baseline Analysis

Water Supply

1.6.9 The 2016 Kent Water for Sustainable Growth Study²⁶ stated that the capacity headroom was not in place at wastewater treatment works (WwTW) to meet planned development and additional capacity was required to support new development.

Under pressure for repeated sewage violations and spills into the sea, Southern Water is currently (June 2024) **not** increasing capacity at Swalecliffe WwTw, but instead installing wider sewage pipes to discharge combined raw sewage and rainwater further out into the channel. This will cause more not less environmental harm to marine life and the businesses: fishing, tourism, retail etc that depend on clean water and a physically and mentally healthy local population.

Photo 4.5.2024 on pedestrian path outside Swalecliffe WwTw near tourist beach Whitstable, formerly known for Oyster Festival.



NPPF requires plan-makers to use up-to-date evidence to support their plans.

Preparing and reviewing plans

31. The preparation and review of all policies should be underpinned by relevant and **up-to-date evidence**. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned..

Instead of referencing a report that is 8 years out of date, the February 2024 sustainability assessment should have referred ***Kent Spatial Risk Assessment for Water 2021/22 Update – Mapbook Volume 2*** which contains essential information for strategic plan-making, site allocation and appropriate density and has maps concerning ground water susceptibility, fluvial flow etc.

‘Introduction

‘ AECOM were commissioned by Kent County Council (KCC) to undertake a Spatial Risk Assessment (SRA) of the impacts of changing climate, land use and population on water systems in Kent..... Some of the **risks and consequences identified in 2014 have begun to materialise**, and importantly, **information sources on climate and population change have also advanced ..** there is a need to **reconsider how risk is defined** to allow a better **understanding of the future physical impacts to water systems ... focus on how nature-based solutions (NbS)** ..can contribute to

managing and mitigating the risk. Additionally, there is a need to understand the risks and mitigations in the Stour catchment

Canterbury District LPA has built on both sides of the Stour flood plane in central Canterbury including around man made structures obstructing and diverting its flow. My impression is that and water pollution events have increased since the strategic flood risk assessment of 2020.

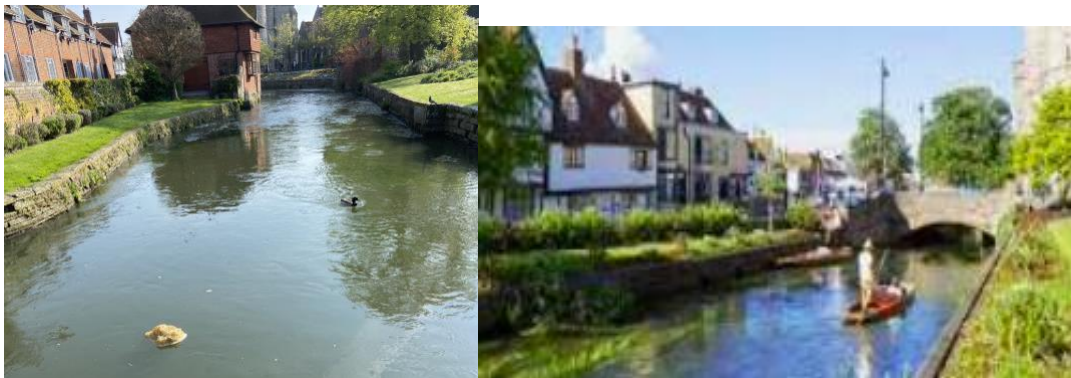
Examples of flooding a since Flood Risk Assessment 2020

There is a mill pond directly behind the new build housing and mill conversion.

Photo 1 : Barton Mill Estate, Canterbury flooding 7.1.2021



Photo 2: Great Stour Westgate Gardens 18.1.2023. Flooding and foul water : comparison with clear water in advertising same location below right



The sustainability appraisal states ‘ With regards to climate change (SA Objective 2), biodiversity (SA Objective 3), land use (SA Objective11) the negative effects were assessed as potentially being significant. These findings reflect the substantial loss of greenfield around the main urban areas and within the new settlement location, with additional loss in other settlements.

Because the Scope Report is 5 years out of date, the sustainability appraisal fails to take into account the negative consequences of water pollution on the health of the local population and the economic consequences to traditional local business and new business. This means that they are not able to assess future sustainability of the current draft local plan with any accuracy. Water quality must be given the same prominence as air quality.

The Environment Act (2021) makes water a 'priority area' for which there must be **robust monitoring indicators** and **specific dates** by which they should be reached.

However, Appendix M, Monitoring Indicators does not give Canterbury District LA any responsibility for monitoring the degradation of water quality that can result from poor strategic planning decisions. This is particularly relevant in the case of the South Canterbury Urban extension 'Mountfield' for which Natural England requires a legal agreement to be made between the developer and Canterbury District Council as the planning details given for a new WwTw with SuDs wetland to be built by notorious private sewerage company Severn Trent are inadequate to establish that discharges of water volume and nitrogen and phosphorous discharges will not cause environmental harm to the Ramsar protected habitat site Stodmarsh.

The draft local plan does not meet the condition of soundness 35 (d)

35. Local plans and spatial development strategies are examined to assess whether they have been prepared in accordance with legal and procedural requirements, and whether they are sound. Plans are 'sound' if they are:

(d) Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant.

As well as being out of date, the statutory obligation to study and protect groundwater relating to Ramsar wetland under the Ramsar Convention is not met. Only lip service is paid to a sustainability objective to improve water quality at Stodmarsh. Without following catchment area guidance and the real involvement of neighbouring districts on all sides which discharge different volumes of water, with different levels of contaminants into the site this is unachievable.

Ramsar Convention Handbook 11 **Managing groundwater** (2010) **Guidelines for the management of groundwater to maintain wetland ecological character**

(adopted as Annex C ii to Resolution IX.1 by the 9th Conference of the Contracting Parties, Kampala, Uganda, 2005)

Relevant implementation commitments made by Contracting Parties in COP Resolutions and Recommendations

Resolution VIII.40: Guidelines for rendering the use of groundwater compatible with the conservation of wetlands

1. RECOGNIZING the importance of the whole water cycle *and the link existing between ground and surface water for their use and management, [...]*;

THE CONFERENCE OF THE CONTRACTING PARTIES

12. URGES the Contracting Parties to **study the impact of the use of groundwater on the conservation of their wetlands [...]**;

..Guidance : 'the Convention's scope certainly includes those components (**surface and subterranean** aquatic ecosystems)'

23 Virtually all of the Ramsar wetland types.. may have significant exchange of water with aquifers...24 The extent of interaction depends on the permeability of any rocks or sediments that lie between the wetland and the aquifer.

It is also not 'effective'

35 c) **Effective**—deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground;

Water Environment (Water Framework Directive) (England and Wales) Regulations 2017, requires:

1) A 'river basin management plan'

to prevent flooding of valleys e.g. the Stour Valley, which with the sudden prolonged downpours associated with climate change could be subject to flooding as happened in 2021 in the Ahr Valley which over 180 people and devastated the local wine industry.

<https://www.wineenthusiast.com/culture/industry-news/ahr-flood-germany-wine/>

The topography of the Stour valley, climate and soil is similar and with increasing temperature, viniculture is which is an area of local economic growth.

and

2 A catchment area plan

that protects low lying areas where lakes arise as water collects from all directions and pollutants accumulate.

The need for strategic planning of water infrastructure and urban development that are aligned and coordinated between countries and the critical nature of robust topographical surveys prior to development is understood in continental Europe and are subject to European Law enforcement.

Britain has the same legislation which was retained after Brexit, but it is not understood and is not enforced due to the fragmentation of 2 tier governance local planning authorities (land allocation for urban residential development) and County authority (local nature recovery scheme, waste, minerals and transport, lead flood authority, lead local nature recovery) and fragmentation of responsibilities and expectation that private companies will provide housing and water infrastructure that meets national and local needs.

In summer 2023, Kent County Leader Roger Gough informed me that despite being the lead flood authority and lead LNRS, he considers that cooperation on water infrastructure by local plan maker Canterbury District is not subject to duty to cooperate and a statement of common ground is not needed to coordinate the different local planning authorities on water management.

The local nature recovery scheme which is led by them cannot be effective unless cumulative effect and the need for infrastructure planning and urban development alignment is understood. So far, it appears investigations on local nature recovery and biodiversity net gain are being done on siloed individual sites.

All issues are highly impacted by strategic land allocation of green field for residential housing development (CCC) and roads (KCC).

The draft local plan concentrates urban development on green field orchards and farmland to the south of Canterbury. This is not only the 4,000 house south Canterbury urban extension, Mountfield (as yet unbuilt) but additional sites for urban developments of thousand more houses on green field that were not in the 2017 plan. Mountfield has been subject to 2 JRs since 2017.

In 2021, High Court Judge, Mr Justice Waksman, granted permission for a legal challenge on environmental grounds :

The city council failed to apply the correct approach to assessing the effects of the development on Stodmarsh, an internationally-protected wetland, under Habitats Regulations, or it acted irrationally by granting permission without giving any reasons for departing from Natural England's policy about the use of package ('PTPs') (sewage treatment plants for individual sites, separate from a main sewage works).

(source Local Government Lawyer

<https://www.localgovernmentlawyer.co.uk/litigation-and-enforcement/400-litigation-news/48589-council-chooses-to-halt-4000-home-development-rather-than-fight-judicial-review>

Planning permission was quashed on two other grounds and this challenge was not examined. It is the case that SuDs wetlands can mitigate pollution emissions from a new WwTw. However a large land area is required.

South Canterbury is not a suitable location for large scale development due to the soil type which is permeable chalk and provide an aquifer which is used for the local water drinking water supply.

The plan concentrates building on farmland to the south of Canterbury which is zone 3 source ground protection zone, according to Appendix D Baseline Analysis

1.6.7 Groundwater Source Protection Zones (SPZ) can be found within the District, **mainly to the South**. These are split into three zones with **zone 3 covering a substantial part of the south east and south west of the District**.

There is no technical evidence given for the assumption stated in the sustainability assessment that the large scale urban development in this area will deliver the same water into the ground as it would do if the land remained as greenfield. Without this assumption the development is unsustainable.

South East Water WRMP cites population growth and delivering water supply as one of their key challenged.

English plan-makers are under a statutory international obligation to study and protect groundwater relating to Ramsar wetland under the Ramsar Convention. Improvement of the environmental condition at Stodmarsh wetlands is included as a local plan sustainability objective. But it cannot be met if this international obligation is ignored.

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..Guidance : 'the Convention's scope certainly includes those components (***surface and subterranean*** aquatic ecosystems)'

23 Virtually all of the Ramsar wetland types.. may have significant exchange of water with aquifers...24 The extent of interaction depends on the permeability of any rocks or sediments that lie between the wetland and the aquifer.

However, the lead hydrologist in charge of EIA both for the Mountfield site and nutrient neutrality strategy for Canterbury district, Guy Laister informed me that they were not commissioned to make any assessment of ground water on the Mountfield site.

Appendix D Baseline Assessment

Water Supply

1.6.6 The Districts potable water is supplied by two different water companies: South East; and Southern Water. Southern Water also provide the wastewater and sewage services for the entire District. **South East Water are currently considering the option of a new reservoir at Broad Oak.**

In fact the WRMP of South East Water states that the Broad Oak reservoir will not be in use until 2033.

Water shortage and drought is likely to increase as a result of climate change (Appendix D **Climate Change**)

There is no way to know the plan will not affect the integrity of a habitats site without an appropriate assessment that contains detail of water supply and foul water disposal plans and water supply, **cumulative** effect must now be considered. The statement of the planning inspector in 2017 is not consistent with NPPF (Dec 2023) and the Environment Act (2021) and the Water Directive (2017)

118. It is not necessary for the policies for every individual site to refer to the need for suitable arrangements for the disposal of foul water. A general reference in Policy CC13 (MM108) will ensure that the LP is effective in this regard.

NPPF explicitly states that cumulative effect including overabstraction of and discharge of pollutants into water course must be considered by plan-makers NPPF (2023) para 191

191 Planning policies and decisions should also ensure that **new development is appropriate for its location** taking into account the likely effects (including **cumulative effects**) of **pollution on health, living conditions and the natural environment**

192 **Planning policies** and decisions **should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants**

The draft local plan was also not prepared in accordance with legal and procedural requirements on public consultation. The Statement of Community Involvement is dated 2019 and contains aims rather than content and the public were not adequately informed of their right to see and comment on a report on the environmental impact of the local plan.

Examining plans

35. Local plans and spatial development strategies are examined to assess whether they have been prepared in accordance with legal and procedural requirements,

Canterbury Newsroom website informs the public that housing quotas cannot be refused, in guidance that has not changed since the former Conservative Council formulated an alternative draft local plan before the May 2023 local election.

‘A number of complex factors have to be taken into account when formulating the Local Plan including the need to demonstrate it will deliver the number of homes the government decides the district needs using a calculation known as the standard methodology. ‘

In fact other methods to the standard method can be used and para 188 makes an exception to this.

The newsroom public guidance also fails to inform the public of the significance of the Sustainability Appraisal which is used as an ‘**environment report**’ which is a statutory requirement according to Regulation 12 of the Environmental Assessment of Plans and Programmes (2004) predicts of the likely **environmental impact** of the draft local plan, as well as the probable economic and social impact.

It fails to inform the public that the Environmental Assessment of Plans and Programmes (2004) regulation 13 gives the public the legal right to comment on the effects of the local plan on the environment. Gov UK guidance to LPAs:

‘As soon as reasonably practicable after their preparation, the draft plan or programme **and environmental report** shall be sent to the consultation bodies and **brought to the attention of the public**, who should be **invited** to express their opinion. The *period* within which opinions must be sent must be of *such length* as will **ensure an effective opportunity to express their opinion**

It is against the mission statement of the planning inspectorate *not* to promote

Right development (does not meet local needs)

SA: whether it meets housing needs is 'unknown'; whether housing development increases jobs is 'unknown'

Right place :

The local plan concentrates development of thousands more houses in addition to the 4,000 house South Canterbury mixed urban extension precisely in source protection zone 3 ' Appendix D

' This zone is defined as the total area needed to support the abstraction or discharge from the protected groundwater source.'

Right time (ie not before water supply and waste water infrastructure is in place)

Broad Oak reservoir that can increase water supply will not be operational until 2033.
(South East Water WRMP)

Appendix D Sustainability Appraisal of Regulation 18 Canterbury and District Draft Local Plan Draft Local Plan to 2040

1.6.9 The 2016 Kent Water for Sustainable Growth Study²⁶ stated that the capacity headroom was not in place at wastewater treatment works (WwTW) to meet planned development and additional capacity was required to support new development. Ensuring that the capacity of WwTW is in place to treat wastewater is key to supporting new growth.